

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA
Plaintiff

v.

Criminal No. 07-488 (ADC)

[47] JESUS M. AGOSTO-FLORES,
Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the Court is an unopposed Report and Recommendation issued by Magistrate-Judge Camille Vélez-Rivé on November 3, 2008. (**Docket No. 800**). In said Report and Recommendation the Magistrate-Judge recommends that: defendant **Jesús M. Agosto-Flores** be adjudged guilty of the offenses charged in Count One (T. 21, U.S.C. §§ 846, 841(a)(1), (b)(1)(C), (b)(2) and 860) inasmuch as, his plea of guilty was intelligently, knowingly and voluntarily entered.

Neither party has filed objections to the Magistrate-Judge's Report and Recommendation within the time frame provided by the Federal Rules of Criminal Procedure and this Court's Local Rules¹. See Fed. R. Crim. P. 11; 28 U.S.C. § 636(b)(1)(B); D.P.R. Local Crim. R. 147(b).

¹ Notice is taken of defendant's clarification at Docket No. 816, pp.2, (In other words, the Report seems to imply that Defendant would breach the plea agreement if his criminal history category is an III and he argues to be sentenced to a term of 72 months. But that contradicts the stipulation in paragraph 8 of the plea agreement, that defendant specifically "reserves the right to request to be sentenced to serve a term of imprisonment of seventy two (72) months....")

After reviewing the record, the Court agrees with the arguments, factual and legal conclusions within the Report and Recommendation. Therefore, the Court hereby **APPROVES** and **ADOPTS** the Magistrate-Judge's Report and Recommendation in its entirety.

Accordingly, a judgment of conviction is to be entered as to Count One of the indictment in the above-captioned case.

The sentencing hearing is set for March 4, 2009 at 2:30 p.m.

IT IS SO ORDERED.

At San Juan, Puerto Rico, this 3rd day of February, 2008.

S/AIDA M. DELGADO-COLON
United States District Judge